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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/655,969

09/04/2003

Jay S. Walker

02-058

8907

22927

7590

04/03/2008

WALKER DIGITAL MANAGEMENT, LLC
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EXAMINER

SAGER, MARK ALAN

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

04/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/655,969	Applicant(s) WALKER ET AL.	
	Examiner M. A. Sager	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2008 and 25 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-61 is/are pending in the application.
- 4a) Of the above claim(s) 10-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/25/08</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. This application contains claims 10-41 drawn to an invention nonelected without traverse (implicit) in the reply filed on May 30, 2007. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

2. Claims 42-55, 57-58, 60-61 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (6012983). Walker discloses a gaming device and method teaching claimed steps/features including an apparatus having a processor and a memory that stores a program and a computer readable medium (figs 1-9), determining a player would like to communicate with another (3:28-42, 10:44-47), monitoring gaming activities of a player at a gaming device (fig 1-9, esp. 8a-9, ref 300, 'player tracking'), obtaining a player identifier (5:57-64, 6:49-65), supplying the player with a communication device (3:55-56, ref 6 - pager or cellular telephone), determining an individual who will communicate with player or determining whether to initiate communication (3:28-42 or use of cellular telephony circuitry to connect to another), enabling communication between player and individual via the portable communication device (sic), determining a prompt and outputting the prompt is communication with player via communication device (3:28-42, 4:64-5:6), an offer of service and enabling the individual to provide a service is to alter or authorize automated play based on player updated/revised inputs (2:29-67, 3:28-42, 49-11, fig 8a-9). Further, Walker '983 clearly includes pager or cellular telephone that includes circuitry for wireless communication. The cellular telephone implicitly

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includes cellular telephone circuitry and Walker '983 does not stipulate any limitation that negates use of a cellular circuitry of cellular telephone as remote communication device.

Claim Rejections - 35 USC § 103

3. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finnegan.

Response to Applicants remark is provided below and incorporated herein. Finnegan discloses claimed method including determining a player would like to communicate, supplying the player with a communication device, determining an individual who will communicate and enabling communication but lacks obtaining a player identifier from the player as noted by Applicants remark (p 10-11). It would have been obvious to an artisan at a time prior to the invention to add obtaining an identifier from the player to Finnegan's method for security or to charge user account if not returned or for its use. Similarly, by analogy to a person checking out (i.e. borrowing) a book from a library by obtaining a persons identifier to have on record which person is assigned which book, it would have been obvious to obtain a player identifier for use of the cellular phones discussed by Finnegan to know which player obtained use of a phone to ensure its return or to know whom to charge for its services.

4. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker ('983).

Walker lacks specifically identifying storing email address; however, since email address is another equivalently known user identifier, it would have been obvious to an artisan at a time prior to the invention to add email address as known to Walker to identify player. Essentially, although email address is another identifier, it fails to patentably distinguish over identifiers taught by Walker.

5. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker ('983). Walker lacks debit; however, debit accounts were notoriously well known user account. It would have been obvious to an artisan at a time prior to the invention to add debit as known to Walker to allow player to use a debit account as payment identifier. Essentially, the type of financial account fails to patentably distinguish over Walker and known account types.

Response to Arguments

6. Applicant's arguments filed 3/5/08 have been fully considered but they are not persuasive. Regarding Applicants' remark that Walker lacks enabling communication between player and the individual via the portable communication device, the examiner disagrees as noted to Jeffrey Ambroziak (47387) during telephonic discussion on 3/28/08 since Applicants' remarks lack consideration of Walker's teachings as a whole in that Walker states the player can increase the credit balance by phoning the casino and authorizing the casino personnel to increase the credit balance on the machine and that remote communications with the player permit the player both to enjoy the ongoing play, and to alter any pre-established, limiting criteria, for example relating to funding, may also be altered remotely, through a telephone call or appropriate communication to casino personnel (sic). Finally, Applicants' remark fails to consider that the cellular telephone implicitly includes cellular telephone circuitry and where Walker does not stipulate any limitation that negates use of its cellular circuitry of cellular telephone as remote communication device inclusive of communicating with any individual via its cellular circuitry. Walker includes 'cellular telephone' which has distinct structure implicit and its disclosure did not present any exception to this.

Conclusion

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schilling and Pierterse each disclose cellular/wireless phone inclusive of debiting a user account.

9. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A. Sager/

Primary Examiner, Art Unit 3714